

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RAMBO RAY SHELTON, SR.,

Plaintiff,

v.

CASE NO. 19-3039-SAC

CITY OF SALINA, et al.,

Defendants.

MEMORANDUM AND ORDER

This matter is a civil rights action filed under 42 U.S.C. § 1983. On April 26, 2019, the Court entered a Notice and Order to Show Cause (NOSC) directing plaintiff to submit an initial partial filing fee of \$28.00 and to submit an amended complaint on a form to be provided by the clerk of the court. The Court has twice extended the time to comply with that order, most recently on September 6, 2019, when the Court extended the time to and including October 7, 2019. Plaintiff has not responded to that order.

Under Rule 41(b) of the Federal Rules of Civil Procedure, a district court, acting upon the motion of a defendant, may order the dismissal of an action for failure to prosecute or for failure to comply with the Federal Rules of Civil Procedure or a court order. *Young v. U.S.*, 316 F. App'x 764, 771 (10th Cir. 2009) (citing Fed. R. Civ. P. 41(b)). "This rule has been interpreted as permitting district courts to dismiss actions *sua sponte* when one of these conditions is met." *Id.* (citing *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962); *Olsen v. Mapes*, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003))). Where the dismissal is without prejudice, a district court is not obligated to follow any particular procedure. *Young*, 316 F.

App'x at 771-72 (citations omitted).

Due to plaintiff's failure to respond or otherwise prosecute this matter, the Court concludes it may be dismissed without prejudice.

IT IS, THEREFORE, BY THE COURT ORDERED this matter is dismissed without prejudice.

IT IS FURTHER ORDERED plaintiff's motion to proceed in forma pauperis (Doc. 2) is denied.

IT IS SO ORDERED.

DATED: This 18th day of October, 2019, at Topeka, Kansas.

S/ Sam A. Crow
SAM A. CROW
U.S. Senior District Judge